Frontier Corporation

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January 28, 1997

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BY OVERNIGHT MAIL

Mr. William F. Caton
Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: CC Docket No. 96-262

Dear Mr. Caton:

Enclosed for filing please find an original plus sixteen (16) paper copies and one electronic copy of the Comments of Frontier Corporation in the above-docketed proceeding.

To acknowledge receipt, please affix an appropriate notation to the copy of this letter provided herewith for that purpose and return same to the undersigned in the enclosed, self-addressed envelope.

Very truly yours,

Michael J. Shortley, III

Michael J. Shortley, III

cc: Internatio[illegible]nscription Service
Competit[illegible]cing Division (2)

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of	)	
	)	
Access Charge Reform	)	**CC Docket No. 96-262**
	)	
Price-Cap Performance Review for Local Exchange Carriers	)	**CC Docket No. 94-1**
	)	
Transport Rate Structure and Pricing	)	**CC Docket No. 91-213**
	)	
Use of the Public Switched Network by Information Service and Internet Access Providers	)	**CC Docket No. 96-263**

COMMENTS OF
FRONTIER CORPORATION

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January 28, 1997

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Summary

Frontier[1] on behalf of its incumbent local exchange, competitive local exchange and interexchange operations, submits these comments on the Commission's Notice initiating this proceeding. In the Notice portion of these consolidated proceedings, the Commission seeks comment on a number of proposals to reform fundamentally the existing interstate access charge regime. The Commission has correctly described this proceeding as a part of the trilogy of the most important proceedings (together with its *Interconnection* and *Universal Service* proceedings) emanating from the Telecommunications Act of 1996. Frontier agrees that not only is access reform painfully needed in and of itself, but also that the Commission needs to reconcile the decisions it reaches here with those that are ultimately reached in the *Interconnection* and *Universal Service* proceedings.

The Commission's beginning assumption -- that the current level of access charges is simply too high -- is generally correct. Access charges -- like the rates ultimately developed for unbundled elements -- need to be aligned with the economic costs of providing service. However, the Commission should revise a number of the assumptions and tentative conclusions that it reaches in the Notice.

First, the Commission should eliminate the interstate CCL charge. This charge represents a substantial portion of access charges assessed by

[1] Abbreviations used in this summary are defined in the text.

incumbent local exchange carriers. In the case of Frontier's exchange carrier subsidiaries, for example, 14.9% of their total interstate access revenues are derived from the CCL charge. Yet, the CCL charge represents nothing more than an anachronistic cost misallocation. The Commission should shift CCL cost recovery in the most economically appropriate way to that identifiable class of customers that are the cost-causers with respect to the local loop, namely end-user customers. The Commission's alternative proposals represent no more than second-best alternatives.

Second, the Commission should phase-down and eliminate TIC. The Commission and, where necessary, a Joint Board, should identify and correct any cost misallocations that result in the TIC of its current magnitude. However, regardless of whatever cost misallocations are identified, the Commission should act, over a fairly short period of time, to remove the TIC from interstate access charges.

Third, the Commission should combine certain aspects of its proposed market-based and prescriptive approaches to access charge reform. The two approaches address different concerns -- the alignment of access rates with economic costs, on the one hand, and the alignment of exchange carriers' ability to compete in the face of changed market conditions, on the other. Both approaches are complementary. Thus, the Commission should both mandate a phase-down, over a relatively short period of time, of access rates and increase the pricing flexibility it offers to exchange carriers in light of objective market evidence that such flexibility is warranted.

Fourth, the Commission should decline to mandate an overly complex access rate structure. Adoption of the proposals for further unbundling contained in the Notice is likely not worth the effort or cost that it would impose on incumbent local exchange carriers and interstate access customers alike.

Finally, the Commission should require enhanced services providers to pay interstate access charges that reflect the costs that they cause. The ESP exemption was adopted over twelve years ago as a transitional mechanism to address concerns unique to an infant industry. The ESP industry has, by now, grown up. There is no reason for the Commission to continue to afford this industry special regulatory protection.

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COMMENTS OF FRONTIER CORPORATION

Introduction

Frontier Corporation ("Frontier"), on behalf of its incumbent local exchange, competitive local exchange and interexchange operations, submits these comments on the Commission's Notice initiating this proceeding.[1] In the Notice portion of these consolidated proceedings, the Commission seeks comment on a number of proposals to reform fundamentally the existing interstate access charge regime. The Commission has correctly described this proceeding as a part of the trilogy of the most important proceedings (together

[1] *Access Charge Reform*, CC Dkt. 96-262, Notice of Proposed Rulemaking, Third Report and Order, and Notice of Inquiry, FCC 96-488 (Dec. 24, 1996) ("Notice").

with its *Interconnection*[2] and *Universal Service*[3] proceedings) emanating from the Telecommunications Act of 1996 ("Act").[4] Frontier agrees that not only is access reform painfully needed in and of itself, but also that the Commission needs to reconcile the decisions it reaches here with those that are ultimately reached in the *Interconnection* and *Universal Service* proceedings.

The Commission's beginning assumption -- that the current level of access charges is simply too high[5] -- is generally correct. Access charges -- like the rates ultimately developed for unbundled elements -- need to be aligned with the economic costs of providing service. However, the Commission should revise a number of the assumptions and tentative conclusions that it reaches in the Notice.

First, the Commission should eliminate the interstate carrier common line charge ("CCL"). This charge represents a substantial portion of access charges assessed by incumbent local exchange carriers. In the case of Frontier's exchange carrier subsidiaries, for example, 14.9% of their total interstate access revenues are derived from the CCL charge. Yet, the CCL charge represents nothing more than an anachronistic cost misallocation. The Commission should

2 *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Dkt. 96-98, First Report and Order, FCC 96-325 (Aug. 8, 1996) ("Local Competition First Report"), *petitions for review pending sub nom. Iowa Utilities Board v. FCC*, No. 96-3321 (8th Cir.).

3 *Federal-State Joint Board on Universal Service*, CC Dkt. 86-282, Recommended Decision, FCC 96J-3 (Nov. 8, 1996) ("Universal Service Recommended Decision").

4 Notice, ¶ 1.

5 *Id.*, ¶ 6-11.

shift CCL cost recovery in the most economically appropriate way to that identifiable class of customers that are the cost-causers with respect to the local loop, namely end-user customers. The Commission's alternative proposals represent no more than second-best alternatives.

Second, the Commission should phase-down and eliminate the transport interconnection charge ("TIC"). The Commission and, where necessary, a Joint Board, should identify and correct any cost misallocations that result in the TIC of its current magnitude. However, regardless of whatever cost misallocations are identified, the Commission should act, over a fairly short period of time, to remove the TIC from interstate access charges.

Third, the Commission should combine certain aspects of its proposed market-based and prescriptive approaches to access charge reform. The two approaches address different concerns -- the alignment of access rates with economic costs, on the one hand, and the alignment of exchange carriers' ability to compete in the face of changed market conditions, on the other. Both approaches are complementary. Thus, the Commission should both mandate a phase-down, over a relatively short period of time, of access rates and increase the pricing flexibility it offers to exchange carriers in light of objective market evidence that such flexibility is warranted.

Fourth, the Commission should decline to mandate an overly complex access rate structure. Adoption of the proposals for further unbundling contained in the Notice is likely not worth the effort or cost that it would impose on incumbent local exchange carriers and interstate access customers alike.

Finally, the Commission should require enhanced services providers ("ESPs") to pay interstate access charges that reflect the costs that they cause. The ESP exemption was adopted over twelve years ago as a transitional mechanism to address concerns unique to an infant industry. The ESP industry has, by now, grown up. There is no reason for the Commission to continue to afford this industry special regulatory protection.

Argument

I. THE COMMISSION SHOULD ELIMINATE THE CARRIER COMMON LINE CHARGE. (Paragraphs 51-70)

The carrier common line ("CCL") charge represents nothing more than an economically unsound subsidy from interexchange carriers to end-user subscribers. The Commission is, therefore, correct in concluding that the CCL charge -- because it recovers non-traffic sensitive ("NTS") costs on a usage-sensitive basis - is economically inefficient.[6] However, the Commission's tentative conclusion -- and the parallel conclusion of the Universal Service Joint Board[7] -- that some form of the CCL charge should be retained is misplaced.

Fundamentally, the Commission's tentative conclusions -- and the alternative recommendations that flow from those conclusions -- ignore the fact

6 *Id.*, ¶ 58.

7 Universal Service Recommended Decision, ¶ 776.

that interexchange carriers do not cause the costs associated with the local loop. Those costs are the same, regardless of whether an individual end-user subscriber makes a large volume of -- or no -- interstate, interexchange calls. Exchange carriers supply loops to provide telephone service to end-user subscribers. Therefore, assigning any portion of the costs associated with the loop for recovery from interexchange carriers is economically inefficient, regardless of the particular method of recovery chosen.[8] Continuing the CCL charge would perpetuate a subsidy that is both inconsistent with the Act and that the Commission should eliminate in any event.

In addition, eliminating the CCL charge would not require the Commission to shift the entirety of the current CCL revenue requirement into a universal service fund.[9] Rather, the Commission should assign responsibility for recovery of all loop costs allocated to the interstate jurisdiction -- at least for price cap carriers -- to end users.[10] At the same time, it should raise the existing $3.50

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8 The Commission requests comment on whether it should change the manner in which it regulates terminating access. Notice, ¶ 271. If the Commission eliminates the CCL charge, this problem obviously disappears.

9 As Frontier demonstrated in its Universal Service comments, the Commission should strive to keep the federal universal fund at the minimum level necessary to satisfy the Act's universal service requirements. *See Federal-State Joint Board on Universal Service*, CC Dkt. 80-286, Comments of Frontier Corporation at 1-2 (Dec. 18, 1996).

10 The Commission proposes to apply whatever rule modifications it adopts in this proceeding to price-cap carriers. Notice, ¶ 50. The Commission should, however, distinguish non-rural price cap carriers from rural price-cap carriers. The Commission distinguishes price-cap from rate-of-return-regulated carriers generally on the basis of size and, therefore, the ability more readily to adapt to the proposed changes and to emerging competition. *Id.*, ¶ 52. Smaller, price-cap-regulated carriers -- such as Frontier's Tier 2 exchange carriers -- are more similarly situated to rate-of-return-regulated rural carriers than they are to non-rural carriers, particularly in terms of size and economies of scope and scale.

per month cap on primary residential and single-line business customers to permit this reallocation of cost recovery responsibility. End-user subscribers constitute the best and a readily identifiable class of customers that are the cost-causers with respect to loop costs. The Commission should, therefore, assign those costs to that class of customers.

Moreover, the magnitude of the rise in the subscriber line charge ("SLC") to accomplish this economically rational shift need not be dramatic. The current multi-line business SLC for Frontier's largest exchange carrier subsidiary -- Rochester Telephone Corp. -- is currently $4.59. Thus, it would take an increase of only $1.09 per month in the residential and single-line business SLC to achieve parity across all end-user customers and recover the entirety of the base factor portion from end-user charges. An increase of this magnitude is economically justifiable and could not rationally be classified as draconian or a threat to universal service.[11]

The Commission should treat the two comparably, by exempting all rural telephone companies generally from the rules that the Commission adopts herein. This proposal is also consistent with the Act in which Congress established differing treatment of rural and non-rural incumbent local exchange carriers. The Commission should take guidance from this distinction for purposes of access charge reform.

Nonetheless, such an exemption should not continue indefinitely. Rural exchange carriers, although they represent a minor fraction of total access lines in service, have by far the highest access rates in the country, generated in large part by anomalies in the separations process (*e.g.*, DEM weighting). Although not in the context of this proceeding, the Commission must address the access charge levels of rural telephone companies in the relatively near future.

11 In addition, the Commission should index the unitary SLC to inflation. Indeed, had the Commission adopted an indexed SLC in the first instance, the existence of a below-cost residential and single-line business SLC would have disappeared by now.

The Commission's proposals to increase the current caps on the SLC for additional residential lines and for multi-line business customers[12] are unworkable and insufficient to correct the existing anomaly. The administrative tasks of determining what is a primary residential line or even what constitutes a second line are daunting and invite efforts to game the system (*e.g.,* subscribing to a second line to a residence in another family member's name). In addition, shifting the burden of CCL recovery onto multi-line business customers is both anti-competitive and economically inefficient. Forcing more common line recovery onto multi-line business customers will do no more than encourage further uneconomic bypass of the switched network. In particular, with alternative local competitors entering the market that are not under a regulatory mandate to assess any SLC, incumbent local exchange carriers should not be forced -- and may not have the option, if the proposed regime were optional -- of

12 *Id.*, ¶ 65.

The Commission also requests comment on how it should assess SLCs on ISDN service and other derived channel services (*id.*, ¶ 69). The Commission should distinguish those derived-channel technologies utilized to provide basic exchange service (*i.e.*, carrier systems) from ISDN and other advanced, derived-channel services. In the former circumstance, the Commission should continue to permit the assessment of the applicable SLC on each working telephone number, regardless of the wireline loop technology used to provide dial-tone. There is no reason for the Commission to distinguish among wireline technologies used to provision a loop. Each end-user customer receives basic exchange service and should be assessed a SLC.

With respect to ISDN, the Commission should adopt the suggestion of the overwhelming of commenters on the issue (*see id.*) that is, it should assess only one SLC on each pair, regardless of the number of channels that derived technology will provide.

increasing multi-line business SLCs without sacrificing customers to competitors for reasons other than relative economic efficiency.

Moreover, such a regime would be economically inefficient, as it would merely shift the current subsidy to residential and single-line business subscribers from interexchange carriers to large business customers. The Commission's proposal fails to acknowledge, much less address, the subsidy that the CCL represents.

Rather than continuing the attempt to sidestep this issue, the Commission should confront it directly. The only economically rational solution is to eliminate the carrier common line charge and shift responsibility for recovery of loop costs allocated to the interstate jurisdiction to end-user subscribers.[13]

II. THE COMMISSION SHOULD PHASE-OUT THE TRANSPORT INTERCONNECTION CHARGE. (Paragraphs 96-122)

The transport interconnection charge ("TIC") represents the second largest subsidy element contained in interstate access charges. In the case of Frontier's exchange carrier subsidiaries, it recovers over half of the revenues allocated to the trunking basket and 5.7% of their switched access revenues.

13 The current CCL rules call for the National Exchange Carrier Association ("NECA") to charge a nationwide averaged CCL rate. This rate is computed as the average of the price cap carriers' rates. Any shortfall of NECA's revenue requirement is then charged back to the non-NECA exchange carriers as long term support ("LTS"). Any reform that solely addresses the price cap carriers' rates will, absent rule changes for NECA, have the effect of increasing the level of LTS paid by all non-NECA exchange carriers. Whatever action the Commission takes to reform price cap carriers' common line rates, it is essential that the rules for NECA be changed in an appropriate manner at the same time.

When the Commission restructured the transport rate elements to price transport elements more in line with costs, this huge residual remained.[14] Although portions of these residual costs constitute a subsidy, other portions may result from separations anomalies or cost misallocations embedded in the Commission's accounting rules.[15] Because of the existence of these anomalies, a flash-cut elimination of the TIC would be unfair. Rather, in conjunction with the combined prescriptive/market-based approach to access charge reform that Frontier advocates below,[16] the Commission should permit exchange carriers to identify and reallocate any misallocated costs and recover those costs from the appropriate rate elements and/or jurisdictions.[17] Coincident with the identification and correction of whatever cost or jurisdictional misallocations may exist, the Commission should proceed with expedition to eliminate the TIC.

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14 *See Transport Rate Structure and Pricing*, CC Dkt. 91-213, Report and Order and Further Notice of Proposed Rulemaking, 7 FCC Rcd. 7006 (1992), *vacated sub nom. Competitive Telecommunications Ass'n v. FCC*, 87 F.3d 522 (D.C. Cir. 1996).

The Commission based the rates for the facilities-related elements in the trunking basket on the basis of their special access counterparts, which the Commission believed -- correctly, in Frontier's view -- were reasonably related to cost. *See id.*, 7 FCC Rcd. at 7028.

15 *See* Notice, ¶ 116.

16 *See* Part III, *infra*.

17 Because reallocation of costs between the interstate and intrastate jurisdictions will likely be required, the Commission should promptly convene a Joint Board to address these issues. The timing of the Joint Board's deliberations and decision must necessarily coincide with the timetable for the proposed phase-out of the TIC.

III. THE COMMISSION SHOULD ADOPT A COMBINED PRESCRIPTIVE/MARKET-BASED APPROACH TO ACCESS CHARGE REFORM. (Paragraphs 140-240)

The Commission posits its market-based and prescriptive approaches to access charge reform essentially as alternatives to producing cost-based access charges.[18] The two approaches actually address different concerns: (1) the prescriptive approach should address overall access rate levels; and (2) the market-based approach should address pricing flexibility issues within the context of an overall cap on interstate access rates.[19]

As a solution to the uneconomic pricing of switched access, the market-based approach assumes that substantial, near-term competition for switched access services will exist. The most credible evidence suggests that the contrary, in fact, will be the case. The Act certainly opens the door for such competition, but it will not be a reality for years to come. Exchange access

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18 Notice, ¶¶ 140-44,

19 The Commission also requests comment on how to address embedded costs that might go unrecovered in an economic-cost environment. *Id.*, ¶¶ 247-70. Other than identifying and permitting the correction of cost misallocations and separations anomalies, the Commission need not afford special treatment to these costs. *First*, the credible evidence (*id.*, ¶¶ 249-55) suggests that the supposed problem is not that great. *Second*, and more importantly, for large incumbent local exchange carriers that elected price cap regulation, those carriers chose to divorce their rates for interstate access services from the underlying costs of service in exchange for the opportunity to achieve above-average rates of return. To the extent that there are "public policy" costs embedded in current interstate access rates, the Commission should ignore those costs incurred after price caps became effective. Exchange carriers lobbied hard for price -- as opposed to cost-of-service -- regulation and should be held accountable for that decision. Thus, if the Commission decides to address this issue, it should recognize only those "public policy" costs incurred prior to the implementation of price cap regulation. Any post-price-cap deficit should -- as would be true in the case of an unregulated industry -- be written off.

competitors must still build out networks and must be able to obtain unbundled elements at economically reasonable prices. The sheer number of cases that have had to go to arbitration -- not to mention the current and anticipated court challenges -- suggests that significant local competition is some years away. As a result, it would be unwise for the Commission to rely solely on market forces to reduce rates to economic costs. Thus, for purposes of realigning rate levels, the Commission should rely upon a prescriptive approach.

However, there should be little doubt that local competition is, in fact, on the horizon. The Commission should not permit its price cap rules to be utilized to preclude exchange carriers from operating efficiently in an increasingly competitive environment. To account for this, the Commission should adopt a market-based approach for granting incumbent local exchange carriers increased flexibility within the constraints of an overall price cap.

A. The Commission Should Adopt a Prescriptive Approach To Adjust Access Rate Levels. (Paragraphs 218-40)

Frontier proposes that the Commission reduce access rates (including the phase-out of the TIC) over the next two years.[20] The Commission should

[20] A short transition is essential to prevent inflated access rates from distorting competition in the face of the advent of Bell company entry into the in-region, interLATA business. *See, e.g.,* Application of Ameritech Michigan Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services in Michigan (Jan 2, 1997). Access charges currently represent close to one-half of an interexchange carrier's cost of doing business. A firm with both exchange and interexchange operations will face the incremental cost of access as its true cost of operating its interexchange business. An unaffiliated firm, however, must pay whatever access rates are tariffed. To the extent those rates are above economic costs, interexchange competition will be significantly distorted. This distortion will provide the Bell companies' in-region,

accomplish this by reinitializing PCIs on the basis of an appropriate measure of long-run incremental cost plus a reasonable share of joint and common costs and a reasonable, risk-adjusted return on investment.[21] Long-run incremental costs represent the proper measure of incremental cost and, should therefore, be utilized to set access rates.

To reset access rates to economic costs, the Commission should require incumbent local exchange carriers to submit appropriate incremental cost studies (including allocations of joint and common costs and return on investment) in the next annual access tariff filing cycle and to reduce their PCIs by one-half of the indicated difference between current PCI levels and the level indicated by the studies. The remaining reduction should take place in the second annual access tariff filing.

The annual access tariff filing cycle provides the most efficient procedural vehicle for accomplishing access charge reductions. The process is already well-established, would provide all parties the opportunity to present cost data and would provide the Commission an appropriate -- but not unduly lengthy -- period of time to evaluate such evidence.[22]

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interexchange businesses a substantial competitive edge and -- given the scope and ubiquity of the Bell companies' exchange operations -- would have enormously detrimental effects on interexchange competition as a whole. Such a result would be completely inconsistent with the pro-competitive purposes of the Act.

21 *See* Notice, ¶¶ 221-22.

22 During and after the transition to cost-based access rates, the Commission should eliminate the X-factor component of the price cap formula. An X-factor adjustment would double-count the adjustments that Frontier proposes.

The Commission's alternative proposals for adjusting access rates fail to address the causes of uneconomic access rates. Altering the X-factor[23] would not directly address the fact that access rates are currently above cost. This approach would ultimately force access rates down, but only in a haphazard fashion. It is preferable for the Commission to confront the issue directly, rather than through indirection.

Similarly, readjusting the authorized rate of return or reinitializing PCIs to target the currently-authorized rate of return[24] represent even more indirect approaches. Cost of capital is only one component of the cost of access services and, therefore, adjustments based solely on the cost of capital would not address the other causes of uneconomic access rates.[25] Thus, this proposed approach represents a partial solution at best.

The correct approach is for the Commission to reinitialize existing PCIs over a short transition based upon economic cost evidence.

Moreover, once access rates reach economic cost levels, there is no reason for the Commission to continue to force access rates down.

23 *Id.*, ¶¶ 232-33.

24 *Id.*, ¶¶ 228-30.

25 The appropriate cost of capital would represent one component of a properly-conducted incremental cost study.

B. The Commission Should Adopt a Market-Based Approach to Pricing Flexibility. (Paragraphs 161-217)

Although the Commission should not rely upon a market-based approach to accomplish overall access charge reductions, it should utilize this approach for pricing flexibility purposes within the constraint of an overall PCI.

The two-phase approach suggested by the Commission is generally correct, although the Commission must exercise care with regard to the degree of pricing flexibility afforded incumbent local exchange carriers. The Commission should also place the burden squarely upon incumbent local exchange carriers to demonstrate that the requisite competitive conditions have, in fact, been satisfied.

In the first phase, the Commission should permit geographic deaveraging of access rate elements other than the SLC.[26] The Commission already permits such deaveraging for special access and switched transport based upon a showing that a particular study area is open to competition.[27] There is no reason not to extend this flexibility to local switching.

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26 The Commission also inquires as to whether it should permit only decreases in the SLC as a result of geographic deaveraging. *Id.*,¶ 180. The Commission should decline to adopt this approach. For the reasons set forth in Part I, *supra*, the residential and single-line business SLC needs to be *increased*, not decreased.

27 *Expanded Interconnection with Local Telephone Company Facilities*, CC Dkt. 91-141, Report and Order and Notice of Proposed Rulemaking, 7 FCC Rcd. 7454 (1992); *Expanded Interconnection with Local Telephone Company Facilities*, CC Dkt. 91-141 (Phase I), Second Report and Order and Third Notice of Proposed Rulemaking, 8 FCC Rcd. 7374 (1993) ("Expanded Interconnection Second Report").

The Commission, however, should react with caution to proposals to permit contract pricing and volume and term discounts premised only upon a showing that a market is open to competition or that some tiny fraction of customers are being solicited by new competitors. At a minimum, the Commission should require incumbent local exchange carriers rigorously to cost-justify any such proposals -- in addition to making the competitive check-list showing. A cautious approach is necessary to prevent incumbent local exchange carriers from favoring the largest interexchange carriers -- principally AT&T -- at the expense of their smaller rivals for reasons unrelated to cost.

For similar reasons, the Commission should flatly prohibit -- at least during Phase I -- incumbent local exchange carriers from offering growth-based discounts. Allowing this type of flexibility could do no more than permit the Bell companies to structure discount packages for which only their start-up in-region, interLATA operations could qualify. The anti-competitive consequences of permitting such flexibility are as obvious as they are undesirable.

In Phase II, the Commission should permit service category and basket consolidation, as proposed.[28] In the presence of actual, substantial competition, the additional pricing constraints engendered by the existence of baskets and service categories would become unnecessary. Moreover, permitting this type of consolidation would permit incumbent local exchange carriers to replicate pricing

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28 Notice, ¶ 211.

conditions that currently exist in competitive markets.[29] Nonetheless, although the Commission should permit rate element consolidation, it should do so on an optional basis only. It should still require exchange carriers to offer access services on an element-by-element basis. Unbundled access offerings are consistent with the Act and will remain necessary to ensure that access customers remain able to purchase only those access services that they require.

Again, the Commission should require rigorous proof from a requesting local exchange carrier that substantial competition is actually present. In this regard, the Commission should not repeat the mistake it made in the *Expanded Interconnection* proceeding, of relying upon absolute numerical triggers[30] as a precondition for increased pricing flexibility. Absolute triggers cannot take into account differences in study area sizes.

Rather, the Commission should rely upon relative triggers, such as percentage of capacity deployed or the extent to which specific geographic and product markets are contestable and contested. Frontier agrees that the Commission should evaluate such showings on a case-by-case basis.[31]

A combination of a prescriptive and a market-based approach to access charge reform will best advance the Commission's goals of aligning access rates

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[29] *See* Part IV, *infra*.

[30] Expanded Interconnection Second Report, 8 FCC Rcd. at 7423-25.

[31] Notice, ¶ 205.

with economic cost and affording incumbent local exchange carriers appropriate pricing flexibility within the constraint of an overall PCI.

IV. THE COMMISSION SHOULD DECLINE TO TINKER WITH THE EXISTING LOCAL SWITCHING AND TRUNKING RATE ELEMENTS. (Paragraphs 71-95)

The Commission's proposals to unbundle further the existing local switching and trunking rate elements[32] represents unbundling for its own sake without any corresponding economic benefit. If the Commission eliminates the CCL and TIC charges, it will have reduced existing access rate levels by nearly 20%. Although additional uneconomic costs will remain, the Commission should address this concern through prescriptive reductions in access rate levels. At some point, the costs of additional, mandatory unbundling will exceed the benefits to be obtained thereby. Such an approach would also run counter to conditions found in currently-competitive markets.

From the perspective of both incumbent local exchange carriers and interstate access customers, the Commission's further unbundling proposals are unwise. The costs to incumbent local exchange carriers to create the billing systems necessary to accommodate the proposed additional rate elements are likely to be substantial. Similarly, interstate access customers would be required to develop systems to track and validate charges for the new elements. In the

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[32] Notice, ¶¶ 71-91.

absence of any indication that significant demand would exist for the new, unbundled elements, the Commission should decline to mandate them.[33]

The evidence to date strongly suggests that further unbundling of access rate elements on a mandatory basis is totally unnecessary. The Commission's Open Network Architecture ("ONA") initiative[34] is a case in point. The Commission's unbundling of access elements into basic serving arrangements ("BSAs") and basic service elements ("BSEs") can be classified as throwing a party to which none of the guests show up. Indeed, in the face of strong opposition from access customers to the Commission's then-proposed *mandatory* ONA structure, the Commission was forced to retreat and require the tariffing of BSAs and BSEs by the Bell companies and GTE as optional alternatives to the standard access rate elements.[35] Even now, demand for ONA-based services remains minimal. The Commission should not repeat the same mistake here.

Moreover, evidence from comparable markets that are competitive today suggests that -- at least on an optional basis -- less rather than more unbundling

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33 The Commission should, in Phase II of the market-based approach, permit incumbent local exchange carriers to create such elements on an optional, revenue-neutral basis. If demand -- in the face of a substantial competitive presence -- for further unbundling exists, the Commission should not preclude exchange carriers from responding to such demand. As discussed above (*see supra* at 15), the Commission should continue to require incumbent local exchange carriers to offer a baseline set of access rate elements that correspond to the current structure.

34 *See. e.g., Filing and Review of Open Network Architecture Plans,* CC Dkt. 88-2 (Phase I), Memorandum Opinion and Order, 4 FCC Rcd. 1 (1988).

35 *See MCI Telecommunications Corp. v. FCC,* 57 F.3d 1136 (D.C. Cir. 1995).

is appropriate. In the interexchange business, for example, carrier-to-carrier contracts are typically priced on a minutes-of-use basis with a few exceptions for specialized services. A wholesale customer will typically buy minutes, not individual rate elements.

On this basis, the Commission should leave the existing access rate elements in place without further unbundling, at least until, if ever, the Commission faces concrete evidence that further unbundling is warranted.

V. THE COMMISSION SHOULD ELIMINATE THE ENHANCED SERVICES PROVIDER EXEMPTION FROM THE ASSESSMENT OF INTERSTATE ACCESS CHARGES. (Paragraphs 282-90)

The Commission's tentative conclusion that it should retain the current enhanced services provider ("ESP") from interstate access charges[36] remains misguided. At the outset, Frontier acknowledges that elimination of the exemption is a decidedly second-best approach. The economically correct approach to the treatment of enhanced services -- including Internet access -- is the adoption of mandatory local measured service. Such a regime would recognize that increased holding times occasioned by Internet access -- and the associated costs and overall service quality issues -- are caused by end-users that choose to remain connected to an information service for hours at a time. Only assigning the costs of such usage to the cost-causers will create the proper

[36] Notice, ¶¶ 282-90.